



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R04-RCRA-2022-0395; FRL-9794-02-R4]

#### Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final action.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action on the authorization of Tennessee's changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes were outlined in an application to the EPA and correspond to certain Federal rules promulgated between January 1, 1983, and June 30, 2021. We have determined that these changes satisfy all requirements needed for final authorization.

**DATES:** This authorization is effective on [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the EPA receives adverse comment by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives such comment, it will publish a timely withdrawal of this direct final action in the *Federal Register* and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2022-0395, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA

may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Robin Billings, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Robin Billings if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Publicly available docket materials are available electronically in [www.regulations.gov](http://www.regulations.gov). For alternative access to docket materials, please contact Robin Billings, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Robin Billings; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8515; fax number: (404) 562-9964; e-mail address: [billings.rob@epa.gov](mailto:billings.rob@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Why is the EPA using a direct final action?**

The EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This action is a routine program change. However, in the “Proposed Rules” section of this issue of the *Federal Register*, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the *Federal Register* before the rule becomes effective. The EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later rule.

## **II. Why are revisions to state programs necessary?**

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in Tennessee, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

## **III. What decisions has the EPA made in this rule?**

Tennessee submitted a complete program revision application, dated September 24, 2021, seeking authorization of changes to its hazardous waste program corresponding to certain Federal rules promulgated between January 1, 1983, and June 30, 2021 (including Recent Requirements (1-8) Cluster<sup>1</sup> (Checklist<sup>2</sup> 2 only), HSWA Cluster I (Checklists SR1 and SI only), HSWA Cluster II (Checklist 44C<sup>3</sup> only), Non-HSWA Cluster V (Checklist 61 only), RCRA Clusters III (Checklists 117A and 117B<sup>4</sup> only), VIII (Checklist 167F only), XVI (Checklist 212 only), XVII (Checklist 214 only), XIX (Checklists 219, 220, and 221<sup>5</sup>), XX (Checklists 222, 223, and 224<sup>6</sup>), and XXI through XXIX). The EPA concludes that Tennessee’s application to revise its authorized program meets all of the statutory and regulatory requirements established under RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants Tennessee final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section VI of this document.

Tennessee has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its program revision application, subject to the limitations of HSWA, as discussed above.

#### **IV. What is the effect of this authorization decision?**

The effect of this decision is that the changes described in Tennessee’s authorization application will become part of the authorized State hazardous waste program and will therefore

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<sup>1</sup> A “cluster” is a grouping of hazardous waste rules that the EPA promulgates from July 1st of one year to June 30th of the following year.

<sup>2</sup> A “checklist” is developed by the EPA for each Federal rule amending the RCRA regulations. The checklists document the changes made by each Federal rule and are presented and numbered in chronological order by date of promulgation.

<sup>3</sup> Checklist 44C was submitted for authorization in the September 2021 application, but Tennessee will need to make a regulatory change to remove its analog to 40 CFR 265.1(c)(2). Therefore, Checklist 44C is not being authorized at this time.

<sup>4</sup> Checklist 117B was submitted for authorization in the September 2021 application, but Tennessee was already authorized for Checklist 117B in May 1995.

<sup>5</sup> Checklist 221 was submitted for authorization in the September 2021 application, but this Checklist was vacated and is not being authorized.

<sup>6</sup> Checklist 224 was submitted for authorization in the September 2021 application, but this Checklist was vacated and is not being authorized.

be federally enforceable. Tennessee will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA will maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing Tennessee are already effective under State law and are not changed by this action.

## **V. What has Tennessee previously been authorized for?**

Tennessee initially received final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820), to implement the RCRA hazardous waste management program. The EPA granted authorization for changes to Tennessee's program on the following dates: June 12, 1987, effective August 11, 1987 (52 FR 22443); June 1, 1992, effective July 31, 1992 (57 FR 23063); May 8, 1995, effective July 7, 1995 (60 FR 22524); August 24, 1995, effective October 23, 1995 (60 FR 43979); May 23, 1996, effective July 22, 1996 (61 FR 25796); January 30, 1998, effective March 31, 1998 (63 FR 4587); September 15, 1999, effective November 15, 1999 (64 FR 49998); October 26, 2000, effective December 26, 2000 (65 FR 64161); December 26, 2001, effective February 25, 2002 (66 FR 66342); April 11, 2003, effective June 10, 2003 (68 FR 17748); March 14, 2005, effective May 13, 2005 (70 FR 12416); May 11, 2006, effective July 10, 2006 (71 FR 27405); October 5, 2012, effective December 4, 2012 (77 FR 60919); and March 20, 2015, effective May 19, 2015 (80 FR 14847).

## **VI. What changes is the EPA authorizing with this action?**

Tennessee submitted a complete program revision application, dated September 24, 2021,

seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR 271.21. This application included changes associated with Checklists SI, SR1, 2, 61, 117A, 167F, 212, 214, 219, 220, 222, 223, 225 through 240, 242, and 243. The EPA has determined, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization.<sup>7</sup> Therefore, the EPA grants final authorization to Tennessee for the following program changes:

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<sup>7</sup> The EPA has determined that certain provisions are more stringent or broader in scope than the Federal program. See discussion in Section VII of this document.

<b>Description of Federal Requirement</b>	<b>Federal Register Date and Page</b>	<b>Analogous State Authority<sup>1</sup></b>
Checklist SR1, <sup>2</sup> Existing and newly regulated surface impoundments	49 FR 44633, 11/8/84	0400-12-01-.05(11)(b)
Checklist SI, <sup>3</sup> Sharing of Information with the Agency for Toxic Substances and Disease Registry	50 FR 28702, 7/15/85	Tennessee Code Annotated (TCA) 68-212-102(2) and TCA 68-212-107(d)
Checklist 2, Permit Rules - Settlement Agreement	48 FR 39611, 9/1/83	0400-12-01-.07(2)(a)7(i) and (iii), and (2)(a)10(i);  0400-12-01-.07(8)(a)4
Checklist 61, Changes to Interim Status Facilities for Hazardous Waste Management; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting	54 FR 9596, 3/7/89	0400-12-01-.07(7)(i)1-2;  0400-12-01-.07(7)(k);  0400-12-01-.07(1)(b)2;  0400-12-01-.07(2)(a)3;  0400-12-01-.07(6);  0400-12-01-.07(10), Appendix I (f)1(i)-(iii), (f)3, (f)4(i)-(ii), (g)1(i)-(ii) and (v), (g)5(i)-(iv), (h)5(iii)-(iv), and (j)6(iii)-(iv);  0400-12-01-.07(3)(c)1(i)-(v), (3)(c)2(i)-(vi), and (3)(d)5-7
Checklist 117A, <sup>4</sup> Reissuance of the "Mixture" and "Derived-From" Rules	57 FR 7628, 3/3/92  57 FR 23062, 6/1/92  57 FR 49278, 10/30/92	0400-12-01-.02(1)(c)1(i)-(ii), (1)(c)1(ii)(I)-(V), including (1)(c)1(ii)(V) I-V, (1)(c)2-3, (1)(c)3(i)-(ii), (1)(c)3(ii)(I)-(II), including (1)(c)3(ii)(II) I- III, (1)(c)4(i)-(ii)
Checklist 167F, Exclusion of Recycled Wood Preserving Wastewaters	63 FR 28556, 5/26/98	0400-12-01-.02(1)(d)1(ix)(III), including (1)(d)1(ix)(III) I-V
Checklist 212, National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)	70 FR 59402, 10/12/05	0400-12-01-.01(2)(b)1 and 2;  0400-12-01-.06(15)(a)2(i) and (iii);  0400-12-01-.05(15)(a)2(i);  0400-12-01-.09(8)(a)2(i) and (iii)-(iv);  0400-12-01-.07(2)(h)1, (2)(h)1(i), (2)(h)1(i)(I)-(IX), and (2)(h)1(ii) [reserved];

		<p>0400-12-01-.07(5)(b)5(v), (5)(b)8, (5)(b)10(iv)(III), and (5)(b)11(v)(III);</p> <p>0400-12-01-.07(8)(b)2(iii);</p> <p>0400-12-01-.07(9)(c)5(x)(I)-(III), (9)(c)5(xi)(I), (9)(c)5(xi)(I) I-IV, (9)(c)5(xi)(II), and (9)(c)5(xi)(II) I-II;</p> <p>0400-12-01-.07(10), Appendix I, Item (I)10;</p> <p>0400-12-01-.07(1)(e) and (j); and</p> <p>0400-12-01-.07(12)(a)1(i)-(ii), (12)(a)2(i)(I), (12)(a)2(ii), (12)(a)3, and (12)(a)3(i)-(ii)</p>
Checklist 214, Corrections to Errors in the Code of Federal Regulations	71 FR 40254, 7/14/06	<p>0400-12-01-.01(2)(a);</p> <p>0400-12-01-.05(5)(a) and (b);</p> <p>0400-12-01-.02(1)(b)3(i)(I), (1)(c)1(ii)(I), (1)(d)1(xxii)(V), (1)(d)2(ii)(II), (1)(d)2(vi)(I) II, (1)(d)2(vi)(II), (1)(d)2(vi)(II) IV, (1)(d)2(vi)(II) VI, (1)(d)2(ix), (1)(d)5(ii)(VI), (1)(d)5(iii)(I), (1)(f)1(ii)(I)-(IV), and (1)(f)3(ii);</p> <p>0400-12-01-.02(3)(b)1(iii), (3)(b)1(iii)(I), (3)(b)1(iii)(II), (3)(b)1(iii)(II) I-IV, (3)(b)1(iv), (3)(b)1(iv)(I), (3)(b)1(iv)(I) I-IV, and (3)(e)2;</p> <p>0400-12-01-.02(4)(b)1 Table, (4)(c)1 Table (Entries for K107 and K069), (4)(d)5 including Comment and Table, and (4)(d)6 including Comment and Table;</p> <p>0400-12-01-.02(30), Appendices VII and VIII;</p> <p>0400-12-01-.06(1)(b)2(ii);</p> <p>0400-12-01-.06(2)(d)2(vii)(III) II, (2)(h)2, and (2)(i)2(iii)(III);</p> <p>0400-12-01-.06(6)(h)1(i), (6)(h)1(i)(I), (6)(h)9(v), (6)(i)1(ii), (6)(i)7(iv)(I), (6)(j)8(ii), and (6)(l)4;</p> <p>0400-12-01-.06(7)(c)2(ix), (7)(f)-(g), (7)(i)3, and (7)(j)2(i)(II);</p> <p>0400-12-01-.06(8)(a)4(i), (8)(c)2(ii),</p>



		<p>(8)(g)2(vii), (8)(g)5(v), (8)(g)1(iii)(I), (8)(f)2, (8)(g)8(x), (8)(n)8(i), (8)(p)2, (8)(p)6-7, (8)(p)7 Item 3, (8)(p)7 Part A, Alternative I, Item 3, (8)(p)7 Part B, Alternative I, Item 10, (8)(p)7 Part B, Alternative I, Item 15, (8)(p)7 Part B, Alternative II, Item 7, (8)(p)8(ii) [Guarantee for Liability Coverage], (8)(p)9, (8)(p)10(ii)(IV), (8)(p)11-12, (8)(p)13 Section 8(III), and (8)(p)14(i) Sections 3(III)I, 3(V)III, 12, and 16;</p> <p>0400-12-01-.06(9)(f)2(i);</p> <p>0400-12-01-.06(10)(d)3(iv) Note, (10)(d)4(iv), (10)(d)5(ii)(II)-(III), (10)(d)5(ii)(V) I-II, (10)(d)5(iii)(I)-(II), (10)(d)7(i)(III)-(IV), and (10)(d)7(ii)(I) I;</p> <p>0400-12-01-.06(11)(b)3(i)(I) II, (11)(b)3(ii)(II), (11)(b)5(i), (11)(b)5(ii)(I) II-III, (11)(b)5(ii)(I) III, (11)(d)2(i), and (11)(g)1(ii);</p> <p>0400-12-01-.06(12)(b)1(ii)(I) I and (12)(c)1-2;</p> <p>0400-12-01-.06(13)(k)3(vii), (13)(k)4, and (13)(n)1;</p> <p>0400-12-01-.06(14)(b)3(ii), (14)(b)5(ii)(I) II, (14)(c)1-2, (14)(e)2(i), (14)(o)5(ii), and (14)(r)1;</p> <p>0400-12-01-.06(15)(e)2;</p> <p>0400-12-01-.06(22)(c)5(iv)(III), (22)(c)5(iv)(IV) VI, (22)(c)5(vi)(III) V, (22)(e)1, and (22)(f)5(vi);</p> <p>0400-12-01-.06(26)(d)1(i), (26)(d)1(iv)(I), (26)(d)1(v), (26)(d)2, and (26)(d)13(ii)-(iii);</p> <p>0400-12-01-.06(27)(a), (27)(b)1, (27)(b)2(xi), and (27)(b)3(iv);</p> <p>0400-12-01-.06(30)(a)3, (30)(d)6(ii)(VII) II, (30)(e)2(ii), and (30)(f)3(iv)(I)-(II);</p> <p>0400-12-01-.06(31)(a)6 and (31)(i)3(i);</p> <p>0400-12-01-.06(32)(a)3;</p>
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		<p>0400-12-01-.06(33)(b)2(iii)(III), (33)(b)3(iii), (33)(b)3(iii)(I), (33)(b)4, and (33)(c)1;</p> <p>0400-12-01-.06(57)(a) Appendix I, Table 1 and Appendix II, Table 2;</p> <p>0400-12-01-.05(1)(b)2(iii);</p> <p>0400-12-01-.05(2)(e)2(i), (2)(g)2, and (2)(j)3(ii);</p> <p>0400-12-01-.05(4)(g)2;</p> <p>0400-12-01-.05(6)(a)4;</p> <p>0400-12-01-.05(7)(a)2(iv), (7)(b)3, (7)(c)2(v), (7)(c)4(iv), (7)(d)2, (7)(d)5(iv), and (7)(j)2(i)(II);</p> <p>0400-12-01-.05(8)(a)2, (8)(a)2(ii), (8)(c)1, (8)(g)7(x), and (8)(n)1(i)(I)-(II);</p> <p>0400-12-01-.05(9)(e);</p> <p>0400-12-01-.05(10)(d)5(ii)(V) I-II, (10)(d)9(ii), (10)(e)2(i)-(ii), and (10)(h)2;</p> <p>0400-12-01-.05(11)(b)1, (11)(b)4(ii)(I) I-II, (11)(e)2(i), (11)(j)1(ii)(III) IV, (11)(j)2(ii), and (11)(k)2(ii)-(iii);</p> <p>0400-12-01-.05(12)(f)2 and (12)(j)2(i);</p> <p>0400-12-01-.05(13)(k)1(iv) and (13)(l)1(i);</p> <p>0400-12-01-.05(14)(b)1, (14)(b)4(i),<sup>5</sup> (14)(b)4(ii)(I)II, (14)(c)2, (14)(d)2(i), (14)(m)1(i), (14)(o)5(i)(II), (14)(o)6(ii), (14)(q), and (14)(q)3-4;</p> <p>0400-12-01-.05(17)(f)1(i)(I);</p> <p>0400-12-01-.05(23)(d)1(iv)(I), (23)(d)2, and (23)(f)2;</p> <p>0400-12-01-.05(27)(d)6(ii)(II), (27)(f)2(ii), (27)(f)2(ii)(I), and (27)(f)3(iv)(I);</p> <p>0400-12-01-.05(28)(n)2(iv)(II);</p>
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		<p>0400-12-01-.05(29)(a)1, (29)(f)8(iii), (29)(h)2, and (29)(k)6(i);</p> <p>0400-12-01-.05(30)(a)4, (30)(b)2(iii)(I) II, (30)(b)2(iii)(III), (30)(b)3(iii), and (30)(b)4;</p> <p>0400-12-01-.05(53)(a), Appendices I (Tables 1 and 2), V (Table), and VI;</p> <p>0400-12-01-.09(6)(a)1;</p> <p>0400-12-01-.09(8)(a)2(ii)(IV), (8)(a)4(iii)(I) I, (8)(a)7, (8)(c)1(ii)(VI), (8)(c)5(iii)(I) V, (8)(c)5(v)(I) III, (8)(c)5(vi)(II) II B, (8)(c)5(viii)(III), (8)(d)1(iv)(VII), (8)(d)2(ii)(V) II B, (8)(d)2(v)(II) I, (8)(d)3(i)(I), (8)(d)3(i)(II) I B, (8)(d)3(i)(IX), (8)(d)3(i)(IX) I, (8)(d)3(iv)(IV) III A, (8)(d)7(i)(I), (8)(g)4(i), (8)(j)1(ii)(II), and (8)(j)2;</p> <p>0400-12-01-.09(14);</p> <p>0400-12-01-.09(30), Appendices III-VI, VIII, and XIII (Item 14);</p> <p>0400-12-01-.10(1)(b)1, (1)(d)1(iii), (1)(g)1(i), (1)(g)1(iii)(II), (1)(g)1(iv) Table (Entry 8), (1)(g)2(iii)(II) Table (Entry 5), (1)(g)2(iv)(II), (1)(g)3(ii), (1)(g)4, (1)(g)4(i), (1)(g)4(i)(I)-(III), (1)(g)4(ii)-(iii), and (1)(n)2-3;</p> <p>0400-12-01-.10(3)(a)7, (3)(a) Treatment Standards Table, (3)(c) Table 1, (3)(f) Table 1, (3)(i) Universal Treatment Standards Table, and (3)(j)4;</p> <p>0400-12-01-.10(4)(a)3 and (4)(a)7;</p> <p>0400-12-01-.10(5), Appendix VIII;</p> <p>0400-12-01-.07(2)(f) and (2)(a)10(ii);</p> <p>0400-12-01-.07(5), (5)(a)1(xi)(II) II, (5)(a)1(xix)(III), (5)(a)1(xxi), (5)(b)3(vi), (5)(b)4(ii), (5)(b)4(vii), and (5)(b)6(ix)(II);</p> <p>0400-12-01-.07(9)(c)6 and (9)(c)5(iv)(II) I;</p> <p>0400-12-01-.07(10), Appendix I;</p>
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		<p>0400-12-01-.07(3)(c)2(ii);</p> <p>0400-12-01-.12(1)(i);</p> <p>0400-12-01-.12(2)(d)2 and (2)(e)1;</p> <p>0400-12-01-.12(3)(e)1;</p> <p>0400-12-01-.11(1)(a);</p> <p>0400-12-01-.11(2)(a)2(ii), (2)(b), and (2)(b) Table 1;</p> <p>0400-12-01-.11(5)(d)3(iii)(I), (5)(d)3(v), (5)(e)1, and (5)(e)3(ii);</p> <p>0400-12-01-.11(6)(c)1-2, (6)(c)2(i)(II), (6)(c)2(vi)(II)-(III), (6)(f)1, (6)(g)1(ii), (6)(h)1(ii)(II), and (6)(j);</p> <p>0400-12-01-.11(7)(d)2(iii) and (7)(e)5;</p> <p>0400-12-01-.11(8)(a)2(i)</p>
Checklist 220, Academic Laboratories Generator Standard	73 FR 72912, 12/1/08	<p>0400-12-01-.03(1)(d)3(vi)-(vii), (1)(a)2(xi), and (1)(a)2(xi)(I)-(II);</p> <p>0400-12-01-.03(10)(a)-(q), including (10)(q)1-2 [Addition of Subpart K]</p>
Checklist 222, OECD Requirements; Export Shipments of Spent Lead-Acid Batteries	75 FR 1236, 1/8/10	<p>0400-12-01-.03(1)(a)2(iv);</p> <p>0400-12-01-.03(9)(a)1-2 and (9)(b);</p> <p>0400-12-01-.01(2)(a);</p> <p>0400-12-01-.03(9)(c)1-5, including (9)(c)5(i)-(ii), (9)(d)1-5, and (9)(e)1-5;</p> <p>0400-12-01-.04(1)(a)5;</p> <p>0400-12-01-.06(2)(c)1(ii);</p> <p>0400-12-01-.06(5)(b)1(iii) and (5)(b)4;</p> <p>0400-12-01-.05(2)(c)1(ii);</p> <p>0400-12-01-.05(5)(b)1(iii) and (5)(b)4;</p> <p>0400-12-01-.09(7)(a)1(vi)-(vii) Table Sections 6 and 7</p>

<p>Checklist 223, Hazardous Waste Technical Corrections and Clarifications</p>	<p>75 FR 12989, 3/18/10</p> <p>75 FR 31716, 6/4/10</p>	<p>0400-12-01-.01(2)(a);</p> <p>0400-12-01-.01 [Removal of Appendix I];</p> <p>0400-12-01-.02(1)(a)3(x) and (1)(b)3 Table 1;</p> <p>0400-12-01-.02(1)(d)1(xvii)(VI), (1)(f)1(ii), (1)(f)1(ii)(II), (1)(f)1(iii), (1)(g)1(i)-(ii), (1)(g)2(i), and (1)(g)2(iii);</p> <p>0400-12-01-.02(3)(d)1(viii);</p> <p>0400-12-01-.02(4)(a)3-4, (4)(b)1 (listing for F037), (4)(c)1 Table, and (4)(d)6 (listing for U239);</p> <p>0400-12-01-.02(30), Appendix VII;</p> <p>0400-12-01-.03(3)(d)6 and (3)(d)6(i)-(iv);</p> <p>0400-12-01-.03(5)(c)1(i)-(ii), (5)(c)3, (5)(c)3(i)-(ii), and (5)(c)2 Note;</p> <p>0400-12-01-.06(4)(c)2 and (4)(g)4(ii);</p> <p>0400-12-01-.06(5)(c)5(vi), (5)(c)6(i), and (5)(c)6(vii)-(viii);</p> <p>0400-12-01-.06(14)(o)4 and (14)(q)2;</p> <p>0400-12-01-.06(22)(c)1(iii)(II)-(IV) and (22)(c)5(iv)(IV) VI;</p> <p>0400-12-01-.05(4)(c)2 and (4)(g)4(ii);</p> <p>0400-12-01-.05(5)(c)5(vi), (5)(c)6(i), and (5)(c)6(vii)-(viii);</p> <p>0400-12-01-.05(14)(o)5 and (14)(q)2;</p> <p>0400-12-01-.10(3)(a) Treatment Standards Table and (3)(i)1 Universal Treatment Standards Table;</p> <p>0400-12-01-.07(8)(g)1(i), (8)(g)1(i)(I)-(IV), and (8)(g)1(ii)</p>
<p>Checklist 225, Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents</p>	<p>75 FR 78918, 12/17/10</p>	<p>0400-12-01-.02(4)(d)6;</p> <p>0400-12-01-.02(30), Appendix VIII;</p> <p>0400-12-01-.10(3)(a) Treatment Standards</p>

		Table; and 0400-12-01-.10(5), Appendix VII (Table 1)
Checklist 226, Academic Laboratories Generator Standards Technical Corrections	75 FR 79304, 12/20/10	0400-12-01-.03(10)(a), (10)(a)1, (10)(g)2(iii)(I), (10)(m)5(i), (10)(o)1(i), and (10)(o)2(i)
Checklist 227, Revision of the Land Disposal Treatment Standards for Carbamate Wastes	76 FR 34147, 6/13/11	0400-12-01-.10(3)(a) Treatment Standards Table and (3)(i)1 Universal Treatment Standards Table
Checklist 228, Hazardous Waste Technical Corrections and Clarifications	77 FR 22229, 4/13/12	0400-12-01-.02(4)(c)1 (Entry for K107); 0400-12-01-.09(3)(a)2
Checklist 229, Conditional Exclusions for Solvent Contaminated Wipes	78 FR 46448, 7/31/13	0400-12-01-.01(2)(a); 0400-12-01-.02(1)(d)1(xxvi), (1)(d)1(xxvi)(I)-(VI), (1)(d)2(xviii), (1)(d)2(xviii)(I)-(VI), including (1)(d)2(xviii)(VI)I-II
Checklist 230, Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities	79 FR 350, 1/3/14	0400-12-01-.01(2)(a); 0400-12-01-.02(1)(d)8, (1)(d)8(i)-(iv), including (1)(d)8(iv)(I)-(III)
Checklist 231, Hazardous Waste Electronic Manifest System; Final Rule	79 FR 7518, 2/7/14	0400-12-01-.01(7)(a)1(i)(I)-(II); 0400-12-01-.01(2)(a); 0400-12-01-.03(3)(a)1(iii), (3)(a)1(iii)(I)-(II), (3)(e), (3)(e)1-6, (3)(f), and (3)(f)1-2; 0400-12-01-.04(3)(a)1(i)-(vii), (3)(f), and (3)(f)1; 0400-12-01-.06(5)(b)1(ii), (5)(b)1(ii)(I)-(V), (5)(b)1(ii)(VI), (5)(b)6-11, and (5)(b)11(i); 0400-12-01-.05(5)(b)1(ii), (5)(b)1(ii)(I)-(V), (5)(b)(ii)(VI), (5)(b)6-11, and (5)(b)11(i)
Checklist 232, Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule	79 FR 36220, 6/26/14	0400-12-01-.01(2)(a); 0400-12-01-.02(5)(b)1(v)(I) VI, (5)(b)1(v)(X), (5)(b)1(v)(X) I-III, (5)(b)1(v)(XI), and (5)(d)1-2
Checklist 219, Revisions to the Definition of Solid Waste <sup>6</sup>	73 FR 64668, 10/30/08	0400-12-01-.01(4)(c)3, including (4)(c)3(i)-(v), (4)(g), and (4)(g)3-5;
Checklist 233, Revisions to the Definition of Solid	80 FR 1694, 1/13/15	0400-12-01-.01(5)(c), including (5)(c)1-2

Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule	83 FR 24664, 5/30/18	
Checklist 233A, Checklist A—Changes affecting all non-waste determinations and variances		
Checklists 233B, Legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained		0400-12-01-.01(2)(a);  0400-12-01-.01(5)(d) and (5)(d)1-2, including (5)(d)2(i)-(ii);  0400-12-01-.02(1)(b)1(ii)(II) [reserved], (1)(b)2(iii)-(iv), and (1)(b)7
Checklist 233C, Speculative Accumulation		0400-12-01-.02(1)(a)3(viii)
Checklist 233D2, 2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule		0400-12-01-.01(2)(a);  0400-12-01-.01(4)(b), (4)(b)2, (4)(b)4-5, (4)(g), (4)(g)1, (4)(e), (4)(e)1-3, including (4)(e)3(i)-(v);  0400-12-01-.02(1)(a)3(iv), (1)(b)3(iii) and (iv) Table 1, and (1)(d)1(xxiii)-(xxv), through and including (1)(d)1(xxv)(I)-(XII);  0400-12-01-.02(8)(a)-(l) [Addition of Subpart H];  0400-12-01-.02(11) and (12) [reserved];  0400-12-01-.02(13)(a)-(d), <sup>7</sup> through and including (13)(d)6(ix)(I)-(VII) [Addition of Subpart M];  0400-12-01-.07(10)(a)9-10 Appendix I
Checklist 233E, Remanufacturing exclusion		0400-12-01-.01(2)(a);  0400-12-01-.02(1)(b)3(iii), (1)(b)3(iv) Table 1, and (1)(d)1(xxvii)(I)-(VI), including (1)(d)1(xxvii)(VI) I-VI;  0400-12-01-.02(9)(a)-(j) [Addition of Subpart I];  0400-12-01-.02(10)(a)-(k) [Addition of Subpart J] [including (10)(c), (10)(d)5, and (10)(f) all reserved];

		<p>0400-12-01-.02(27)(a)-(f),<sup>8</sup> including (27)(f)1-6 [Addition of Subpart AA] [including (27)(d)1(ii) reserved];</p> <p>0400-12-01-.02(28)(a)-(o), including (28)(o)1-13 [Addition of Subpart BB];</p> <p>0400-12-01-.02(29)(a)-(j), including (29)(j)1-8 [Addition of Subpart CC] [including (29)(a)2, (29)(d)2, (29)(f), and (29)(g)2(ii) all reserved]</p>
Checklist 234, Vacatur of the Comparable Fuels Rule and the Gasification Rule	80 FR 18777, 4/8/15	<p>0400-12-01-.01(2)(a);</p> <p>0400-12-01-.02(1)(d)1(xii) and (1)(d)1(xvi) [reserved];</p> <p>0400-12-01-.02(5)(a) [reserved]</p>
Checklist 235, Disposal of Coal Combustion Residuals from Electric Utilities	80 FR 21302, 4/17/15	0400-12-01-.02(1)(d)2(iv)(I)-(II), including (1)(d)2(iv)(II) I-VIII
Checklist 236, Imports and Exports of Hazardous Waste	<p>81 FR 85696, 11/28/16</p> <p>82 FR 41015, 8/29/17</p> <p>83 FR 38262, 8/6/18</p>	<p>0400-12-01-.01(2)(a) and (2)(b)1-2;</p> <p>0400-12-01-.02(1)(d)4(i), (1)(d)4(iv), (1)(d)5(i), (1)(d)5(iv), (1)(f)1(iii)(I), and (1)(f)1(v);</p> <p>0400-12-01-.02(5)(b)1(v)(II), (5)(b)1(v)(V)-(VI), (5)(b)1(v)(IX), and (5)(b)1(v)(XI);</p> <p>0400-12-01-.03(1)(a)2(iv) and (1)(i)4;</p> <p>0400-12-01-.03(5)(b)4;</p> <p>0400-12-01-.03(7)-(8) [Removal of Subparts E and F];</p> <p>0400-12-01-.03(9)(a)-(e), including (9)(e)1-8 and (9)(e)8(i)-(iv), and (9)(f)-(j) [reserved];</p> <p>0400-12-01-.04(1)(a)5;</p> <p>0400-12-01-.04(3)(a)1(ii), (3)(a)3, (3)(a)5(ii), (3)(a)6(ii) and Note, (3)(a)7, (3)(a)7(i)-(iv), including (3)(a)7(iv)(I)-(II);</p> <p>0400-12-01-.06(2)(c)1, (2)(c)1(i)-(iv), and (2)(c)1(iv)(I)-(II);</p> <p>0400-12-01-.06(5)(b)1(iii), (5)(b)1(iii)(I)-(II), and (5)(b)4;</p>



		<p>0400-12-01-.05(2)(c)1, (2)(c)1(i)-(iv), including (2)(c)1(iv)(I)-(II);</p> <p>0400-12-01-.05(5)(b)1(iii), (5)(b)1(iii)(I)-(II), and (5)(b)4;</p> <p>0400-12-01-.09(6)(a)2 and (6)(a)2(i)-(iii);</p> <p>0400-12-01-.09(7)(a)1(vi)-(x);</p> <p>0400-12-01-.12(2)(k);</p> <p>0400-12-01-.12(3)(j)1 and 2, and (3)(k);</p> <p>0400-12-01-.12(4)(g);</p> <p>0400-12-01-.12(5)(c)1;</p> <p>0400-12-01-.12(6)(a) and (6)(a)1-3</p>
Checklist 237, Hazardous Waste Generator Improvements Rule	81 FR 85732, 11/28/16	<p>0400-12-01-.01(1)(b);</p> <p>0400-12-01-.01(2)(a) and (2)(b)1-2;</p> <p>0400-12-01-.02(1)(a)1(i), (1)(a)3(vi), (1)(d)1(vii), (1)(e) [reserved], and (1)(f)3(ii)(IV);</p> <p>0400-12-01-.02(4)(d)5-6;</p> <p>0400-12-01-.02(13)(d)7;</p> <p>0400-12-01-.03(1)(a)1, (1)(a)1(i)-(ii), (1)(a)2(i), (1)(a)2(i)(I), (1)(a)2(i)(I) I, (1)(a)2(i)(I) I A-D, (1)(a)2(i)(I) II, (1)(a)2(i)(I) II A-G and I, (1)(a)2(i)(I) III, (1)(a)2(i)(I) III A-F and H, (1)(a)2(i)(II)-(III), (1)(a)2(ii), (1)(a)2(iv), (1)(a)2(vii)(I)-(II), (1)(a)2(x) [reserved], (1)(a)2(xi), (1)(a)2(xi)(I)-(II), (1)(b), (1)(b)1-7, (1)(c) [reserved], and (1)(d)-(i), including (1)(d)(i)1-4</p> <p>0400-12-01-.03(2)(d) and (2)(d)1(i)-(ii);</p> <p>0400-12-01-.03(3) and (4) (headings);</p> <p>0400-12-01-.03(4)(c)2-4, (4)(e) [reserved], and (4)(f);</p> <p>0400-12-01-.03(5)(a) (heading), (5)(a)3, (5)(b), (5)(b)1, (5)(b)3-4, and (5)(d)-(e);</p>

		<p>0400-12-01-.03(10)(a)1, (10)(a)11, (10)(b)1-2, (10)(c)1-2, (10)(d)1-2, (10)(e)1, (10)(g)2(iii)(III), (10)(h)4(ii), (10)(i)1(i)-(ii), (10)(i)4(ii), (10)(i)4(ii)(I)-(II), (10)(j)2, (10)(k)1, (10)(k)2(iii), (10)(k)4(ii), (10)(l)3-4, (10)(l)5(iii), (10)(m)4, (10)(n)1(i)-(iii), (10)(n)2(ii), (10)(o)2(v), and (10)(q)1-2;</p> <p>0400-12-01-.03(11)(a)-(d), including (11)(d)1-3 [Addition of Subpart L];</p> <p>0400-12-01-.03(12)(a)-(m),<sup>9</sup> including (12)(m)9(i)-(vi) [Addition of Subpart M];</p> <p>0400-12-01-.04(1)(c)4-5, including (1)(c)5(i)-(ii);</p> <p>0400-12-01-.06(1)(b)2(i) and (1)(b)2(iii);</p> <p>0400-12-01-.06(2)(f)2(iv);</p> <p>0400-12-01-.06(5)(b)3 and (5)(f);</p> <p>0400-12-01-.06(9)(a) and (9)(e);</p> <p>0400-12-01-.06(10)(b)1 and (10)(f)5 [reserved];</p> <p>0400-12-01-.06(30)(a)2(ii);</p> <p>0400-12-01-.06(31)(a)2(iii);</p> <p>0400-12-01-.06(33)(b)3(iv);</p> <p>0400-12-01-.05(1)(b)2(i), (1)(b)2(iv), (2)(f)2(iv), and (2)(f)2(v) [reserved];</p> <p>0400-12-01-.05(5)(b)3 and (5)(f);</p> <p>0400-12-01-.05(9)(e);</p> <p>0400-12-01-.05(10)(f)4 [reserved] and (10)(l) [reserved];</p> <p>0400-12-01-.05(27)(a)2(ii)-(iii);</p> <p>0400-12-01-.05(28)(a);</p> <p>0400-12-01-.05(30)(b)3(iv);</p> <p>0400-12-01-.09(7)(a)1(vi) and (viii)-(x);</p>
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		<p>0400-12-01-.09(14)(f)1(i);</p> <p>0400-12-01-.10(1)(a)5(i) and (1)(g)1(v);</p> <p>0400-12-01-.10(4)(a)1(i), (4)(a)1(ii)(I), and (4)(a)1(ii)(I) I-IV;</p> <p>0400-12-01-.07(1)(b)4 and (1)(b)4(i)-(ii);</p> <p>0400-12-01-.12(1)(c) and (1)(c)1(ii);</p> <p>0400-12-01-.12(7)(b)2;</p> <p>0400-12-01-.11(2)(a)2(iii)</p>
Checklist 238, Confidentiality Determinations for Hazardous Waste Export and Import Documents	82 FR 60894, 12/26/17	<p>0400-12-01-.01(7)(a)1 and (Note) and (7)(a)1(ii)(I)-(II);</p> <p>0400-12-01-.02(5)(b)1(v)(IV);</p> <p>0400-12-01-.03(9)(d)2(v), (9)(d)6(ix), (9)(e)2(iv), and (9)(e)6(viii)</p>
Checklist 239, Hazardous Waste Electronic Manifest User Fee Rule	83 FR 420, 1/3/18	<p>0400-12-01-.01(1)(d), (1)(d)1, including (1)(d)1(i)-(iv), (1)(e), (1)(e)1-2, including (1)(e)2(i)-(ii);</p> <p>0400-12-01-.03(3)(a)1(i)-(ii), (3)(e)3, (3)(e)3(i) and (ii) [reserved], (3)(e)5, (3)(e)7 [reserved], and (3)(e)8;</p> <p>0400-12-01-.03(13) [Appendix removed];</p> <p>0400-12-01-.04(3)(a)1(viii) [reserved] and (ix), and (3)(b)1-3, including (3)(b)3(i)-(ii);</p> <p>0400-12-01-.06(5)(b)1(ii), including (5)(b)1(ii)(I)-(VI), (5)(b)10, (5)(b)10(i)-(ii), (5)(b)12, and (5)(b)12(i)-(v);</p> <p>0400-12-01-.06(32)(g)3(iv)(I) and (32)(g)4(iv)(I);</p> <p>0400-12-01-.05(5)(b)1(ii), including (5)(b)1(ii)(I)-(VI), (5)(b)10(i)-(ii), (5)(b)12, and (5)(b)12(i)-(v);</p> <p>0400-12-01-.05(29)(h)3(iv)(I) and (29)(h)4(iv)(I);</p>

Checklist 240, Safe Management of Recalled Airbags	83 FR 61552, 11/30/18	0400-12-01-.01(2)(a);  0400-12-01-.02(1)(d)9 [reserved], (1)(d)10(i)-(iii);  0400-12-01-.03(1)(e)1(v)(IX)-(X) [both reserved] and (1)(e)1(v)(XI)
Checklist 242, Universal Waste Regulations: Addition of Aerosol Cans	84 FR 67202, 12/9/19	0400-12-01-.01(2)(a);  0400-12-01-.02(1)(j)3-5;  0400-12-01-.06(1)(b)2(x)(III)-(V);  0400-12-01-.05(1)(b)2(xii)(III)-(V);  0400-12-01-.10(1)(a)6(iii)-(v);  0400-12-01-.07(1)(b)4(ix)(III)-(V);  0400-12-01-.12(1)(a)1(iii)-(v), (1)(c)2(ii), (1)(f)1-3, including (1)(f)3(i)-(ii), and (1)(i);  0400-12-01-.12(2)(d)3(ii)(III)-(IV), (2)(d)5, (2)(d)5(i)-(iv), including (2)(d)5(iv)(I)-(VII), and (2)(e)6;  0400-12-01-.12(3)(c)2(iv), (3)(d)3(ii)(III)- (IV), (3)(d)5, (3)(d)5(i)-(iv), including (3)(d)5(iv)(I)-(VII), and (3)(e)6
Checklist 243, Modernizing Ignitable Liquids Determinations	85 FR 40594, 7/7/20	0400-12-01-.01(2)(b) and (2)(b)1-2;  0400-12-01-.02(3)(b)1(i), (3)(b)1(iii)(II), (3)(b)1(iii)(II)I-II, (3)(b)1(iii)(III)-(IV) (removed), (3)(b)1(iv), (3)(b)1(iv)(I)I, (3)(b)1(iv)(I)IV, and (3)(b)2 (removed Notes 1-4)

#### Notes

<sup>1</sup> The Tennessee regulatory citations are from the Tennessee Rules of the Division of Solid Waste Management (Hazardous Waste Program), Chapter 0400-12-01, as amended through June 3, 2021.

<sup>2</sup> Checklist SR1 corresponds to two HSWA statutory provisions relating to existing and newly regulated surface impoundments (RCRA sections 3005(j)(1) and 3005(j)(6)(A)). The 1988 deadline in RCRA section 3005(j)(1) has passed making this provision moot. The statutory requirement at RCRA section 3005(j)(6)(A) has been codified at 40 CFR 265.221(h) by Checklist 109. Tennessee was authorized for Checklist 109 in 1995. The EPA is including Checklist SR1 in this authorization for completeness.

<sup>3</sup> Checklist SI relates to a state's authority to share landfill or surface impoundment permit application information with the Agency for Toxic Substances and Disease Registry (ATSDR). There is no regulatory analog to this provision at the Federal or State level; therefore, the Tennessee *statutory* provisions providing for the State's authority to share information with ATSDR are listed above.

<sup>4</sup> Checklist 117A has been superseded by Checklist 192A, Mixture and Derived-From Rule Revisions. Tennessee was previously authorized for Checklist 192A, effective February 7, 2005. The EPA is including Checklist 117A in this authorization for completeness.

<sup>5</sup> Tennessee's 0400-12-01-.05(14)(b)4(i) contains an incorrect cross-reference to Rule 0400-12-01-.02(3)(d). The correct reference to the Toxicity Characteristic Rule is 0400-12-01-.02(3)(e). Tennessee will correct this cross-reference in a subsequent rulemaking.

<sup>6</sup> Tennessee has adopted the 2008 Federal Revisions to the Definition of Solid Waste Rule, as amended on January

13, 2015, and May 30, 2018.

<sup>7</sup> The Federal regulations at 40 CFR part 261, subpart M, still contain references to the verified recycler variance under 40 CFR 260.31(d), which has been removed. Tennessee has appropriately removed these references throughout its 0400-12-01-.02(13); however, in several places, Tennessee's regulations replace the reference to the verified recycler variance with the phrase "or an intermediate or reclamation facility *excluded from regulation under subpart (1)(d)1(xxiv) of this rule*." Note that it is not the facility that is excluded under 0400-12-01-.02(1)(d)1(xxiv); it is the hazardous secondary material that is potentially excluded from regulation. Tennessee will amend its regulations to clarify this distinction in a subsequent rulemaking.

<sup>8</sup> The Tennessee regulation at 0400-12-01-.02(27)(d)14(i)(II) contains an incorrect cross-reference to paragraphs (30) and (32) of 0400-12-01-.06. The correct cross-reference should be to 0400-12-01-.02(27) and (29). Tennessee will amend its regulations to correct this cross-reference in a subsequent rulemaking.

<sup>9</sup> The EPA is excluding from this authorization part (12)(j)4 of 0400-12-01-.03(12)(j), which is the analog to 40 CFR 262.262. The waiver from making "arrangements" with the local fire department and other emergency response organizations at 40 CFR 262.256(c) was not intended to exempt facilities with 24-hour response capabilities from providing copies of their contingency plans and quick reference guides to local emergency responders who may be called upon to provide emergency services. Tennessee will be removing this provision from its regulations in a subsequent rulemaking.

## VII. Where are the revised State rules different than the Federal rules?

When revised state rules differ from the Federal rules in the RCRA state authorization process, the EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, state programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable.

The following Tennessee provisions are more stringent than the Federal program:

- Tennessee is more stringent than the Federal program at 0400-12-01-.02(1)(d)1(xxiii)(I) II-III and at 0400-12-01-.02(1)(d)8(iv)(I)-(II) by adding a clause that the certifications must be made under penalty of perjury.
- Tennessee is more stringent than the Federal program at 0400-12-01-.02(1)(d)1(xxiv)(VI) III by requiring confirmations to be sent within thirty (30) days of receipt.
- Tennessee is more stringent than the Federal program at 0400-12-01-.02(1)(f)3(ii)(IV) by requiring annual reporting instead of biennial reporting.
- Tennessee is more stringent than the Federal program at 0400-12-01-.03(1)(e)1 by requiring additional episodic and other reporting requirements for very small quantity generators.

- Tennessee is more stringent than the Federal program at 0400-12-01.03(1)(g)2(ii)(IV) II, (g)2(iii)(III) II, (g)2(iii)(IV) II, (g)2(iv)(III) III, (h)1(i)(V) II, (h)1(ii)(II), (h)1(iii)(I), and (h)1(iii)(III) III by requiring that records for large and small quantity generator inspections be kept for at least three (3) years and that such records include specific information.
- Tennessee is more stringent than the Federal program at 0400-12-01-.03(1)(a)2(i)(I) II C, 0400-12-01-.03(1)(a)(2)(i)(I) III C, and 0400-12-01-.03(2)(d)1-3 in that these provisions require re-notification to the Commissioner within thirty (30) days after certain changes, annual updates to the notification information on file for large and small quantity generators, and notification of cessation of operations and closure.
- Tennessee is more stringent than the Federal program at 0400-12-01-.03(5)(b)1-3 by requiring annual reporting for large and small quantity generators, as opposed to biennial reporting.
- Tennessee is more stringent than the Federal program at 0400-12-01-.03(11)(c)1(v) and 0400-12-01-.03(11)(c)2(v) by requiring annual reporting for small and very small quantity generators.
- Tennessee is more stringent than the Federal program at 0400-12-01-.04(1)(c)4-5 by imposing additional requirements on transfer facilities, including personnel training and security.
- Tennessee is more stringent than the Federal program at 0400-12-01-.06(5)(f) and 0400-12-01-.05(5)(f) by requiring annual reporting as opposed to biennial reporting.
- Tennessee is more stringent than the Federal program at 0400-12-01-.11(2)(a)2(iii) by regulating mixtures of used oil exhibiting the characteristic of ignitability as a hazardous waste rather than as used oil.

Although the statute does not prevent states from adopting regulations that are broader in scope than the Federal program, states cannot receive authorization for such regulations, and

they are not federally enforceable. The following Tennessee provisions are broader in scope than the Federal program:

- Tennessee is broader in scope than the Federal program at 0400-12-01-.03(1)(a)2(i)(I) II H and (I) III G by requiring a hazardous waste reduction plan for large and small quantity generators.
- Tennessee is broader in scope than the Federal program at 0400-12-01-.03(1)(i)3 by requiring that transporters have a permit and not just an EPA Identification Number.

In the definition of legitimate recycling found at 0400-12-01-.01(5)(d), which corresponds to 40 CFR 260.43, Tennessee includes two (2) clarifying notes regarding legitimate recycling that are based on the preamble discussion in the 2015 final Definition of Solid Waste Rule (see 80 FR 1720-22, January 13, 2015). These notes do not affect a facility's obligation to legitimately recycle, nor do any of the material-specific exclusions from the definition of solid waste negate the requirement that the hazardous secondary material must be legitimately recycled as required by 0400-12-01-.01(5)(d). Per part (1)(b)6 of Rule 0400-12-01-.02 (equivalent to 40 CFR 261.2(f)), respondents in an enforcement action would be required to provide appropriate documentation in order to demonstrate that any recycling exemptions or exclusions claimed are based on the material being legitimately recycled. Tennessee will be removing or clarifying these notes in a subsequent rulemaking.

There are certain regulatory provisions for which the states cannot be authorized to administer or implement. These provisions include the requirements associated with the operation of the national E-Manifest system and the user fee provisions associated with the operation of such system contained in the Hazardous Waste Electronic Manifest Rule (Checklist 231) and the Hazardous Waste Electronic Manifest User Fee Rule (Checklist 239). Although Tennessee has adopted these regulations to maintain its equivalency with the Federal program, it has appropriately maintained the Federal references in order to preserve the EPA's authority to implement these non-delegable provisions.

Because of the Federal Government's special role in matters of foreign policy, the EPA does not authorize states to administer the Federal import/export functions associated with the OECD Requirements for Export Shipments of Spent Lead-Acid Batteries (Checklist 222), the Revisions to the Export Provisions of the Cathode Ray Tube Rule (Checklist 232), the Imports and Exports of Hazardous Waste Rule (Checklist 236), and the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule (Checklist 238). Although Tennessee has adopted these regulations to maintain its equivalency with the Federal program, it has appropriately maintained the Federal references in order to preserve the EPA's authority to implement these provisions.

#### **VIII. Who handles permits after the authorization takes effect?**

When final authorization takes effect, Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits that the EPA issued prior to the effective date of authorization until they expire or are terminated. The EPA will not issue any new permits or new portions of permits for the provisions listed in the table above after the effective date of the final authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not yet authorized. The EPA has the authority to enforce State-issued permits after the State is authorized.

#### **IX. What is codification and is the EPA codifying Tennessee's hazardous waste program as authorized in this rule?**

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of Tennessee's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part



272, subpart RR, for the authorization of Tennessee's program changes at a later date.

## **X. Statutory and Executive Order Reviews**

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state's application for authorization as long

as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988), by examining the takings implications of this action in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). “Burden” is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, this rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This final action will be effective **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

#### **List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: June 28, 2022.

**Daniel Blackman**  
*Regional Administrator, Region 4.*

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